



An
Bord
Pleanála

Inspector's Report

ABP-312104-21

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| Development | Demolition of properties Nos 46A-49 Patrick Street. Construction of a Build to Rent apartment complex of 3-4 storeys comprising 22 No. units and all associated site development works, landscaping, boundary treatments and services. |
| Location | Nos 45-49 Patrick Street, and Rogan's Court, Dun Laoghaire, Co Dublin |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D21A/0825 |
| Applicant(s) | DKG Properties Ltd |
| Type of Application | Planning Permission |
| Planning Authority Decision | Refusal |
| Type of Appeal | First Party |
| Appellant(s) | DKG Properties Ltd |
| Observer(s) | John and Teresa Patchell |
| Date of Site Inspection | 15 th November 2022 |
| Inspector | Susan Clarke |

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1.0 Site Location and Description

- 1.1.1. The rectangular shaped appeal site, measuring 0.213ha, is located at Nos. 45-49 Patrick Street, and Rogan's Court, Dun Laoghaire, Co Dublin, approximately 450m south of the centre of Dun Laoghaire. The site fronts onto the southern end of Patrick Street, between the junction of Tivoli Road and Cross Avenue. Patrick Street is a one-way road, running in a north to south direction, with on-street parking. The site is bound by two storey residential properties to the north, Patrick Street to the east, a three storey office/apartment building (the Oriel Building) to the south, and a narrow laneway to the west. Ashford House (nursing home) is located on the opposite side of the laneway to the subject site. The immediate area predominantly comprises low-rise (one-three storeys) residential development, but also has mixed-use commercial and professional service uses. There is a mix of architectural styles and designs.
- 1.1.2. The site comprises two storey, terraced properties in office and residential use facing onto Patrick Street with staggered building frontages. To the rear (west) of the site a block of two storey offices front onto Rogan's Court with surface car parking and access from Patrick Street between Nos. 46B and 47A Patrick Street. No. 49 located to the south of the site was constructed in the 1800's but is not a Protected Structure, nor located in an architectural conservation area.
- 1.1.3. The context of the subject site is presented in the appendix to this report which includes, maps and a number of photographs taken on the day of my site inspection.

2.0 Proposed Development

- 2.1. The proposed development comprises:
- Demolition of Nos. 46A-49 Patrick Street.
 - Construction of a part-two/part-three/part-four storey, build-to-rent, apartment building comprising 22 No. units (3 No. studios, 12 No. 1-bed, 5 No. 2-bed, 2 No. 3 bed).
 - Provision of communal open space, resident support facilities and resident services/amenities including a communal room/resident's gym, a communal laundry, and concierge/postal area.

- Provision of car parking (surface/undercroft) and cycle parking.
- Landscaping, boundary treatments and all associated site development works.

2.1.1. The proposed development will be contemporary in design and materials/finishes will consist of brick, zinc cladding, self-coloured render, and glazed balconies.

2.1.2. At present, the site is serviced off an existing combined surface water and foul system. It is proposed to provide separate surface water and wastewater networks running under the development's courtyard. The networks will combine at the outfall manhole via a Broadstrap detail, allowing for a future separate surface water connection. In terms of water supply, it is proposed to make a new connection to an existing 6" cast iron watermain under Patrick Street, or as directed by Irish Water.

2.1.3. The key figures for the proposed development are stated as follows:

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|--------------------------------|---|
| Site Area | 0.213ha |
| No. of apartments | 22 (3 No. studios, 12 No. 1-bed, 5 No. 2-bed, 2 No. 3 bed) |
| Dual Aspect | 77% |
| Residential Density | 103 units per hectare – excluding rear offices to be retained. |
| Commercial Uses | Offices to be retained to the rear of the site. |
| Gross Floor Area | Demolition 647 sq m (251 sq m residential floor space (No. 49 Patrick Street)) To be Retained 588 sq m Proposed 1800 sq m |
| Building Height | Part 2/Part 3/Part 4 Storey |
| Car Parking | 26 existing car parking spaces – 12 to be allocated to BTR scheme and 14 to be allocated to the offices |
| Bicycle parking | 48 No. spaces |
| Internal communal space | 60 sq m |
| External communal space | 310.7sq m |
| Communal facilities | Post Room 60 sq m Laundry 12.7 |
| Public Open Space | 0 |

2.2. Along with the standard drawings and information, the application included the following reports:

- Planning Report
- Architect's Design Statement
- Daylight and Sunlight Report
- Landscape Drawings and Detail
- Engineering Planning Report
- Screening Report for Appropriate Assessment
- Traffic/Transport Assessment.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. A Notification of Decision to Refuse Permission was issued on 8th November 2021 for two reasons:

1. *The proposed development, by reason of **height, scale, massing, and separation distances to boundaries, its design and abrupt transition in scale, relative to the receiving environment**, would result in a **visually incongruous, discordant, and overbearing development**, would materially **detract from the character** of the surrounding urban landscape, and would seriously **injure the amenities and depreciate the value of property** in the vicinity. The proposed development would be **contrary to Section 8.2.3.4 (vii) Infill, Policy UD1: 'Urban Design Principles' and Policy UD6 'Building Height Strategy'** of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development would, therefore, would be contrary to the proper planning and sustainable development of the area. (**Bold**: My emphasis.)*
2. *Having regard to the **scale, design, and layout of the proposed development**, and to the **restricted separation distances between the apartments and the site boundaries**, in particular the office buildings to the*

rear within the same site, it is considered that the proposed development would provide a **substandard form of accommodation** for future occupants in terms of residential amenity. The proposed development would constitute **overdevelopment** of a limited site, would seriously **injure the amenities or depreciate the value of property in the vicinity**, and would also help to **set a poor precedent for similar infill development in the area**. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. (**Bold**: My emphasis.)

3.2. Planning Authority Reports

3.2.1. Planning Report (8th November 2011)

Basis of Planning Authority's decision.

The Planning Officer considered that the principle of the proposed development was acceptable in terms of land use zoning. However the Officer stated that the proposal's massing, scale, and proximity to the subject site boundaries particularly the existing buildings within the site, would have an adverse impact on the amenities of proposed building and existing adjacent streetscape properties.

Other Technical Reports

Transportation Planning (3rd November 2021): recommends further information be sought in relation to access for fire tender, car parking, bicycle and motorcycle numbers, cyclist facilities, and the preparation of a construction management plan.

Environment Section (19th October 2021): Requests further information in relation to an environmental management construction and demolition plan, noise plan, noise and vibration monitoring, pest control and operational waste management plan.

Drainage Planning (6th October 2021): Compliance with the Development Plan's Green Roofs Guidance Document has not been demonstrated.

Public Lighting (30th September 2021): Request further information in relation to any proposed external lighting or alterations to the existing lighting.

3.3. Prescribed Bodies

Irish Water (14th September 2021): No objection, subject to condition.

3.4. Third Party Observations

3.4.1. Five Third-Party Observations were submitted to the Local Authority opposing the proposed development. The key points can be summarised as follows:

- Overdevelopment - excessive height and scale
- Increased traffic and congestion in the area
- Additional landscaping required
- Design not in keeping with the area
- Sunlight impacts
- Environmental concerns regarding the demolition of buildings
- Architectural significance of No. 49 Patrick Street
- Concerns regarding retention of offices on site
- Inadequate communal space
- Flooding implications from underground stream on site.

4.0 Planning History

4.1.1. **DLRCC Ref. V/047/20:** Part V Certificate of Exemption, dated 4th September 2021.

4.1.2. **Reg. Ref. D20A/0386** – No. 49, Patrick Street, Dun Laoghaire, Co. Dublin

DLRCC refused planning permission on 24th July 2020 for the demolition of No. 49 and the construction of an apartment complex ranging from 3 to 4 storeys in height fronting onto Patrick Street around a central first floor podium open space.

Permission was refused for two reasons:

1. *Having regard to the **density, scale, design and layout** of the proposed development and to the **restricted separation distances between the apartments and the site boundaries**; it is considered that the layout of the proposed development would provide a substandard form of accommodation for future occupants in terms of residential amenity and the development would be contrary to Policy UD1: 'Urban Design Principles' of the County Development Plan, which promotes high quality design in accordance with the 'Urban Design Manual,*

2009'. *The proposed development would therefore result in a **poor standard of residential development, would constitute overdevelopment of a limited site, set a poor precedent for similar infill development**, would be contrary to the proper planning and sustainable development of the area and would seriously injure the amenities or depreciate the value of property in the vicinity.*

2. *It is considered that the proposal by reason of **height, scale, massing, and separation distances to boundaries and abrupt transition in scale relative to the receiving environment, would result in an incongruous and overbearing development**, would interfere with the character of the surrounding urban landscape, would seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the zoning objective which is 'to protect and or improve residential amenity', Policy RES3 'Residential Density', Section 8.2.3.4 (vii), as well as the Building Height Strategy and related Policy UD6 of the Dun Laoghaire Rathdown Development Plan 2016-2022 and therefore would be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

- 5.1.1. The National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

- NPO 27 promotes the integration of safe and convenient alternatives to the car into the design of communities;
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;
- NPO 35 encourages increased residential density through a range of measures, including site-based regeneration and increased height.

5.1.2. Following the theme of ‘compact urban growth’ and NPO 13 of the NPF, the **2018 Urban Development and Building Heights, Guidelines for Planning Authorities** (hereafter referred to as the ‘Building Heights Guidelines’) outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3. Guidelines for Planning Authorities on **Sustainable Residential Development in Urban Areas (DoEHLG, 2009)** (hereafter referred to as the ‘Sustainable Residential Development Guidelines’) sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4. The **2020 Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities** (hereafter referred to as the ‘Apartment Guidelines’) sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

5.1.5. Section 5.0 of the Apartment Guidelines specifically relates to the Build to Rent (BTR) and Shared Accommodation Sectors. BTR developments are defined as follows:

Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord.

Specific Planning Policy Requirement (SPPR) 7 sets out the following requirements for BTR developments:

(a) Described in the public notices associated with a planning application specifically as a ‘Build-To-Rent’ housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further

to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

- i. Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.*
- ii. Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.*

Section 5.11 states:

While all BTR developments will be required to provide satisfactory resident support facilities, the nature and extent of the resident services and amenities may be agreed by the project developer and the planning authority having regard to the scale, intended location and market for the proposed development. The provision of specific BTR amenities to renters will vary and the developer will be required to provide an evidence basis that the proposed facilities are appropriate to the intended rental market.

SPPR 8 sets out the following criteria for proposals that qualify as specific BTR development in accordance with SPPR 7:

- i. No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;*
- ii. Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in*

Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity

- iii. There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;*
- iv. The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;*
- v. The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.*

Part V requirements are to apply to BTR developments. Section 5.12 of the Guidelines notes that the particular circumstances of BTR apartment projects may mitigate against the putting forward of acquisition or transfer of units and land options as set out in DHPCLG Housing Circular 36 2016, Section 96(3) and the leasing option may be more practicable in such developments.

5.2. Dun Laoghaire Rathdown County Development Plan, 2022-2028

- 5.2.1. Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the County. The applicable plan is the Dun Laoghaire Rathdown County Development Plan, 2022-2028. I do not consider that there are material differences between the former Development Plan and the new Development Plan for the purposes of assessing this appeal case.

- 5.2.2. The subject site is zoned Objective A “*To provide residential development and improve residential amenity while protecting the existing residential amenities*”.
- 5.2.3. The site is within the boundary of the proposed Dun Laoghaire and environs Local Area Plan (LAP) area.
- 5.2.4. Policy Objective PHP28 Build-to Rent and Shared Accommodation/ Co-living Developments:

It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of ‘Sustainable Urban Housing: Design Standards for New Apartments’, 2020 (and any amendment thereof). Proliferation of Built to rent should be avoided in any one area. As the HNDA does not support provision of shared accommodation there shall be a presumption against granting planning permission for shared accommodation/co-living development.

Residential

- Policy Objective PHP18: Residential Density
- Policy Objective PHP28: Build-to Rent and Shared Accommodation/ Co-living Developments
- Policy Objective PHP20: Protection of Existing Residential Amenity
- Policy Objective PHP37: Public Realm Design
- Policy Objective PHP40: Shared Space Layouts
- Policy Objective PHP42: Building Design & Height
- PHP43: Design in Local Area Plans

Development Management

- Section 12.3.1.1 Design Criteria
- Section 12.3.3 Quantitative Standards for Residential Development
- Section 12.3.5 Apartment Development
- Section 12.3.7.7 Infill
- Section 12.4.5 Car Parking Standards

- Section 12.4.6 Cycle Parking
- Section 12.8.2/12.8.3/12.8.8 Open Space
- Section 12.8.6.2 SuDS
- Appendix 5: Building Height Strategy

5.3. Natural Heritage Designations

- 5.3.1. The South Dublin Bay SAC (site code 000210) and South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.1.2km from the site.
- 5.3.2. Furthermore, the site is located approximately 0.7km from Dalkey Coastal Zone and Killiney Hill, Proposed Natural Heritage Area.

5.4. EIA Screening

- 5.4.1. On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) “construction of more than 500 dwelling units” and Class 10(b)(iv) “urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the modest size of the site at 0.213 ha and the number of units to be provided at 22 No., which is considerably below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, the location of the development on an infill serviced site together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and that the submission of an environmental impact assessment report is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First-Party Appeal was submitted to An Bord Pleanála on 10th January 2021 opposing the Local Authority’s decision to refuse permission. The grounds of appeal can be summarised as follows:

- The proposal allows for the creation of a sustainable community within an urban infill area.
- The receiving environment along Patrick Street is not homogenous. There is a variety of architectural styles, plot sizes, building lines, building heights and materials in the area.
- The architectural design of the proposal has a variation of height, setback, and materials to provide visual interest and break up the building frontages.
- The retention of the buildings to the rear of the site will not result in any alteration to the separation distances to the properties to the west fronting onto Tivoli Terrace East. Similarly, there is no change to the separation distances between properties on Patrick Street.
- The existing buildings on site are not of any particular architectural merit and the principle of their removal has been supported by the Planning Authority in previous applications.
- The introduction of new, modern housing will increase affordability within the area, particularly as this is a Build-to-rent development, enabling more people to live in the area, which during a housing crisis can only be welcomed.
- There will not be a significant increase in overshadowing or loss of light to buildings along Patrick Street. Due to the retention of existing buildings the changes and impact on the surrounding neighbours will be minimal.
- The Appeal outlines the scheme's compliance with Policy UD1 Urban Design Principles. In summary, the Applicant outlines that the site is located 450m from George's Street, in close proximity to Irish Rail/Dart and bus stations. The proposal allows for an intensification of use and varied of uses on the site and will increase surveillance on Patrick Street. The sustainable proposal will provide a contemporary, infill modern design. All apartments can be altered internally and a high-quality landscaping proposal is included with the application. The scheme is compliant with the former Development Plan's building height strategy. The proposal will not impact detrimentally on the surrounding properties.

- The proposal is wholly in accordance with both the NPF, and the Development Plan.
- The proposal is compliant with the Building Height Guidelines, including the applicable SPPRs.
- The inclusion of backland development is not unique to this site but is characteristic of Patrick Street.
- At ground level, a distance of c.10m is proposed between the existing buildings and the proposed apartments.
- Due to the hours of operations for both the commercial and residential uses, the level of overlapping times and potential loss of privacy is limited.
- The rooms and openings within the apartments which face onto the car parking area and courtyard are all either secondary windows serving bathrooms or kitchens or are rear doors serving the houses or stairwells. These are not primary windows and are simply to provide light and ventilation into the room and not intended to provide an aspect. Nor are these apartments reliant on these aspects. There is no concern in relation to overlooking or privacy of future residents amenity at ground level.
- The potential impact of overlooking is restricted to the first floor and the relationship between the first floor offices and the proposed apartments. These apartments are protected by their balconies, a privacy strip and the communal walkway. Furthermore, none of the offices face a bedroom. As such no undue overlooking will occur.
- The proposal will be an appropriate mix and form of development which protects both existing properties on site and future occupants within the development which protects both existing properties on site and future occupants within the development and their amenities.
- The Appeal includes a submission by the scheme's architect justifying the design proposal. Key points raised include:

- Balconies were not provided facing onto Patrick Street to minimise any perceived overlooking for the existing residents; to reflect and respect the fabric of the street; and to avoid visual clutter or obtrusiveness.
- Over three quarters of the apartments are dual aspect.
- All balconies face onto the communal open space, which provides for quality private open space and passive surveillance.
- It was decided to provide for only a single circulation core with a lift for the 4 storey element of the development. This means that all residents could meet each other in their comings and goings from the development. The proposal also allows for Part M compliance.
- The level of "privacy" that the DLRCC planner appears to require for these units is akin to what might be applied to a large suburban/greenfield development. There is a need for a level of flexibility and design innovation to facilitate brownfield residential redevelopment and make such locations attractive for development.
- The quantum of private and communal open space is significantly above standard as acknowledged in the DLRCC report.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority issued a Response to the Board on 7th January 2022 with comments from the Drainage Division confirming that whilst the Division initially recommended that further information be sought, this opportunity was not availed of because planning permission was refused by the Planning Authority. The Division recommends that should the Board grant permission for the proposal that a condition be attached to the Order requiring the Applicant to demonstrate compliance the Council's Green Roof policy.

6.3. Observations

- 6.3.1. An Observation from John and Teresa Patchell was received by the Board supporting the Local Authority's refusal.

6.3.2. In summary, the key points raised in the Observation can be summarised as follows:

- An underground stream on the site needs to be considered.
- The proposal is not in keeping with the surrounding area and conflicts with Development Plan policy in relation to infill development and height.
- The colour would also be seriously out of place among the mature period properties located on Patrick Street.
- Overdevelopment.
- Depreciation of property values in the vicinity.
- Substandard form of accommodation.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1.1. Having inspected the site and examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle of the development
- Suitability of Design
- Quality of Residential Amenity Proposed
- Impacts on Adjoining Properties
- Daylight/Sunlight
- Other Matters
- Appropriate Assessment

Each of these issues are addressed in turn below.

7.2. Principle of the Development

Land Use Zoning

- 7.2.1. The proposed development involves the demolition of Nos. 46A-49 Patrick Street and the construction of 22 No. build-to-rent apartments. The proposal includes the retention of the existing office buildings to the rear of the site. The subject site is zoned Objective A “*To provide residential development and improve residential amenity while protecting the existing residential amenities*”. ‘Residential’ is a ‘Permitted in Principle’ use under this zoning objective, while ‘Residential – Build to Rent’ is listed as an ‘Open for Consideration’ land use. As such, the proposed development is acceptable in land use zoning terms, subject to quantitative and qualitative safeguards in respect of design and amenity. I note that the Planning Authority stated also that the development would be compatible with the overall policies and objectives for the zone.

Tenure and Typology

- 7.2.2. The proposed BTR development has been described as such in the public notices. The application includes a draft agreement which would restrict and regulate the development for the period of 15 years such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold separately. Accordingly, I am satisfied that the application has been made in accordance with the requirements of SPPR 7(a) of the Apartments Guidelines. The application also includes ‘residential support facilities’ and ‘residential services and amenities’ in compliance with SPPR 7(b) of the Apartments Guidelines. The suitability of these support services/amenities will be assessed below.
- 7.2.3. Furthermore, the updated 2020 version of the Apartments Guidelines continues to recognise that BTR has a potential role to play in providing choice and flexibility to people and in supporting economic growth and access to jobs in Ireland. They can provide a viable long term housing solution to households where home ownership may not be a priority, such as people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy. The Guidelines highlight that a key aspect of BTR is its potential to accelerate the delivery of new housing at a significantly greater scale than at present, which can make a significant contribution to the required increase in housing supply nationally, as identified by ‘Rebuilding Ireland – Action Plan for

Housing and Homeless (Government of Ireland, 2016)', and the scale of increased urban housing provision envisaged by the National Planning Framework.

- 7.2.4. Having regard to the above, together with the location of the site in close proximity to the centre of Dun Laoghaire and good public transport facilities, I am satisfied that the principle of a BTR scheme is acceptable at this location. The proposal would provide a balance to the existing housing stock in the area, which has traditionally been well served with larger / owner-occupied homes.

Demolition of Buildings

- 7.2.5. Whilst Observations made to the Local Authority during the public consultation period raised concerns in relation to the demolition of the existing buildings, I note that the Planning Officer raised no objection to this aspect of the proposal. The subject buildings are not Protected Structures, nor are they located in an architectural conservation area. While Nos. 46A-48 appear to be in good structural condition, I note from my site visit that No. 49 is in a state of disrepair. The area comprises a mix of architectural styles and designs. Policy Objective PHP18 (Residential Density) of the Development Plan aims to increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria. The proposal would provide for 22 No. apartments in an infill, brownfield urban area in close proximity to public transport and as such is consistent with Policy Objective PHP18. It would also be consistent with national policy and guidance regarding the promotion of compact development and the regeneration of underutilised sites. As such, I have no objection to the demolition of the buildings, subject to the attachment of appropriate conditions in relation to waste management.

Conclusion

- 7.2.6. In conclusion, I consider that the proposed development complies with the Objective 'A' land use zoning and would be consistent with local and national policies to support compact development on infill urban sites. Accordingly, I have no objection to the development in principle, subject to further assessment as outlined in the following sections.

7.3. Suitability of Design

- 7.3.1. The Local Authority's first reason for refusal states that the proposed development by reason of height, scale, and massing and separation distances to the boundaries, its design and abrupt transition of scale would result in a visually incongruous, discordant, and overbearing development, would materially detract from the character of the surrounding urban landscape, and would seriously injure the amenities and depreciate the value of property.
- 7.3.2. Consistent with national policy and guidance, the Development Plan seeks to encourage the redevelopment of underutilised lands in appropriate locations to achieve higher density sustainable development. In quantitative terms, the proposed development would have a residential density of 103 units per hectare (excluding the rear offices to be retained). This is consistent with national policy and guidance (listed in Section 5.1 above), and the Development Plan which seeks to encourage the redevelopment of underutilised lands in appropriate locations to achieve higher density sustainable development.
- 7.3.3. The 2009 guidelines on 'Sustainable Residential Development' recommend that increased densities (minimum 50 per hectare) should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station, with densities decreasing with distance from such nodes. SPPR 1 of the 2018 Building Height Guidelines supports increased building height and density through statutory plans in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Furthermore, Section 2 of the Apartment Guidelines outlines the types of location that may be suitable for apartment development. It describes 'central and/or accessible urban locations' as being generally suitable for large-scale higher-density development that may wholly comprise apartments. Subject to further consideration and assessment, such sites would include those that are:
- within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
 - within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas);

- within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

7.3.4. The site is within 500m of George's Street in the centre of Dun Laoghaire. Furthermore, the site is within close proximity of public transport modes including Dun Laoghaire Rail/Dart station (750m) and a number of bus routes along George's Street and York Road.

7.3.5. On the basis of the foregoing, I consider that the site is within a 'Central and/or Accessible Urban Location' based on the criteria set out in the Apartment Guidelines. Given the site's prominent location and its proximity to the Dun Laoghaire town centre, employment centres, and high frequency public transport services, I consider that the site can sustainably support higher density apartment development.

7.3.6. The proposed development consists of the construction of a part-two/part-three/part-four storey building. The four-storey element extends for approx. 14m along Patrick Street and is positioned next to the three storey Oriel Building. It has an overall height (including the lift overrun) of approx. 13.3m. The three-storey element along Patrick Street is approx. 3m taller than the ridge height of the adjoining two storey dwelling at No. 45 Patrick Street. As stated above, the area is generally low-rise in nature, but as highlighted by the Applicant, there is no single consistent height on the Street. This is further evident in the photographs attached to this Report. I concur with the Applicant that the scheme will predominantly read as a two-storey building fronting Patrick Street, with the majority of the third and fourth storeys recessed back from the Street (see photomontages prepared by Model Works included with the application). The proposed height falls in the same direction as the Street's levels fall from south to north and would not result in an abrupt transition of scale. I do not consider that the proposed height will have any undue overbearing impacts on the properties along Patrick Street. Having regard to the commercial nature of the buildings to the rear of the site, I do not consider the proposed height to be inappropriate. Furthermore, having regard to the separation distance between the proposed building and the orientation and design of Ashford House, it will not have any overbearing impacts on the nursing home. In my view, the proposed height would not adversely impact the character of the area but would allow for compact urban development on a brownfield site in accordance with local and national policy.

- 7.3.7. In terms of the scale and massing of the proposal, I consider the proposal to be acceptable. The series of setbacks along the front (east) elevation and variety of building materials ensures that the overall scale and massing is not overbearing on the area. The width/depth of the proposal (approx. 14m) in relation to the adjoining properties (Oriel Building and No. 44 Patrick Street) ensures that the proposed building will not be overbearing on these properties.
- 7.3.8. On the basis of the foregoing, I do not consider that the proposed development's height, scale and massing would be visually obtrusive or incongruous.
- 7.3.9. As outlined in Section 2.0 above, the proposed development will have a contemporary design with materials/finishes consisting of brick, zinc cladding, and self-coloured render. In my view, the proposal will visually integrate successfully into the streetscape and make a positive contribution to the urban landscape.
- 7.3.10. In conclusion, I am satisfied that the proposed building's overall height, scale massing, and design are appropriate for this location. In my opinion, it will not adversely impact the visual amenity or character of the area. Having regard to the above, I do not consider that the proposal would depreciate property values in the area. However, as discussed in further detail below, while the proposed density is acceptable in principle in quantitative terms, I have concerns regarding the overall layout of the scheme having regard to the configuration of the units within the site and the incorporation of the existing offices along the western boundary and the surface car parking, and the resulting impact that this would have on the residential amenity of future residents.

7.4. Quality of Residential Amenity Proposed

Mix of Units

- 7.4.1. The application for 22 No. apartments includes three studios (14%), twelve 1-bed units (54%), five 2-bed units (23%), and two 3-bed units (9%). In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities. I also note that SPPR 8 (i) of the Apartment Guidelines states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. Accordingly, I am satisfied that the proposed mix of units is acceptable.

Floor Areas and Dimensions

- 7.4.2. All proposed units comply with the minimum overall apartment floor areas as set out in Appendix 1 of the Apartment Guidelines. Section 3.8 of the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. However, SPPR 8 (iv) of the Guidelines clarifies that this requirement does not apply to BTR developments. I have also reviewed the other requirements of Appendix 1 relating to living/kitchen/dining areas, bedrooms, storage and ceiling heights and I am satisfied that the proposal satisfactorily complies with the relevant room area/width standards. I note that the Local Authority raise no concerns in relation to these elements of the proposed development.

Lift, Stair Cores and Circulation Areas

- 7.4.3. As per SPPR 6 of the Guidelines, the maximum allowable apartments per floor per stair/lift core is generally 12. The Applicant states that one of the guiding principles for the scheme was to design a development that would allow chance meetings between residents creating community while at the same time ensuring a sense of individual homes and privacy. As such it was decided to provide for only a single circulation core with a lift for the 4 storey element of the development. Apart from the six apartments that are accessed from the lift core, all the remaining units act as 'Own Door' apartments off the ground floor level or first floor level podium. The Applicant highlights that this arrangement allows for full compliance with Part M of the Building Regulations, while giving individuals a sense of ownership of each unit.
- 7.4.4. While I acknowledge the merits of the strategy, in my view, it significantly reduces the amenity value of the communal open space and privacy of the private open space for Unit Nos. 7-15, as discussed in further detail below. Furthermore, due to the configuration of the units within the site, in addition to the provision of undercroft car parking, the access arrangements for Units 3 and 4 is very poor, notwithstanding them having their own separate doors. The subject entrances are immediately adjoined by car parking spaces. There is very limited buffering and nowhere for discrete external storage. Such restricted space is lacking in its functionality and amenity for the future occupants.

Aspect

- 7.4.5. SPPR 4 of the Apartment Guidelines outlines that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations such as this, a requirement which may be relaxed on urban infill sites up to 0.25ha. The proposal includes 17 No. (77%) dual-aspect units, with none of the single-aspect units facing north. The five single aspect units are located at ground floor level. These units have small west facing windows (serving bathrooms) looking onto the undercroft car park. The Applicant states that these windows are for ventilation purposes only. In summary, I consider that the proportion of dual-aspect units significantly exceeds the 33% requirement as per SPPR 4 (i) and I have no objection in this regard.

Communal Facilities

- 7.4.6. Section 5.5. of the Apartment Guidelines states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR. The provision of such facilities contributes to the creation of a shared environment where individual renters become more integrated and develop a sense of belonging with their neighbours in the scheme. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as 'resident support facilities' and 'resident services and amenities'. In this respect, the application includes a communal laundry room (12.7 sq m), a post/general store (13 sq m) and a multi-purpose communal room (60 sq m) at first level to the rear of the site. Whilst the range of facilities and amenities is limited, I consider them to be acceptable, having regard to the scale of the proposed development.
- 7.4.7. I note that the application does not include an Operational Waste Management Plan. However, should the Board be minded to grant permission for the proposal, I consider that this matter could be addressed by way of planning condition.
- 7.4.8. The Planning Guidelines for Childcare Facilities (2001) recommend the provision of one child-care facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. Section 4.7 of the Apartment Guidelines outline that one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms. Having regard to the total no. of units proposed (22)

and the no. of 2-bed units proposed (5), I am satisfied that childcare facilities are not required in this case.

Private Amenity Space

- 7.4.9. The proposed units would be provided with private amenity spaces which comply with the minimum area and width requirements as per the Apartment Guidelines. However, the Planning Authority has raised concerns about the quality of some private spaces, particularly in relation to privacy. I note that the Apartment Guidelines states that private amenity should be optimised for solar orientation and that it is preferable that they would primarily be accessed from living rooms. A minimum depth of 1.5m is required for balconies. The Guidelines state that glass-screened 'winter gardens' may be provided in certain circumstances. Requirements may be relaxed in part or whole on urban infill sites up to 0.25ha and SPPR 8(ii) further outlines that flexibility shall apply on the basis of alternative communal facilities/amenities.
- 7.4.10. I share the concerns of the Local Authority in relation to the private open space for the five east-facing ground floor units along Patrick Street. While the overall area of these spaces is compliant with the Guidelines, their narrow widths (2m-3.7m) will reduce their functional use/amenity value, particularly when landscaping for screening/privacy from the Street is provided (see Landscape Plans and Landscape Design Rationale for Level 00 + Level 0, Outline Landscape Materials Specification Keys). I acknowledge the potential benefits of these spaces providing direct access from the Units to the Street. However, having regard to the restricted nature of the access arrangements to the rear of the units (Nos. 3 and 4) below the undercroft, I have concerns that the amenity value of these private open space areas may be reduced should they be used primarily as an access point. Having regard to the foregoing, in my opinion, the level of amenity provided by these spaces will be relatively low.
- 7.4.11. The remaining units will benefit from west facing private open spaces. The spaces provided for the seven units at first floor level have a depth of 2m and look onto the communal open space and offices along the rear of the site. Screens measuring 0.7m will be provided around each of the spaces. Furthermore, as highlighted on the landscaping plans, planting will be provided sporadically west of the balconies along the communal area, which will provide some level of screening and privacy for residents, albeit very limited. These spaces are approx. 9.5m from the front elevation

of the rear offices on the site and as such will be significantly overlooked. While I note the Applicant's arguments that due to the hours of operations for both the commercial and residential uses, the level of overlapping times and potential loss of privacy is limited. However, whilst firstly noting that the office hours of operation are not specified, more importantly, I do not consider this an appropriate or sufficient mitigation strategy to overcome overlooking from the offices. Furthermore, while I note the Applicant's arguments that none of the bedrooms are overlooked, there are multiple office windows located approx. 11.5m from directly opposite the living spaces of these apartments. I do not consider the landscape plan (see Landscape Plans and Landscape Design Rationale for Level 00 + Level 0, Outline Landscape Materials Specification Keys) provides sufficient screening.

7.4.12. The eight units at second floor level would have private open space with widths of 1.5m. The terraces would be separated by 1.8m high frosted glazed screens. Whilst the width complies with the minimum standards required in the Guidelines and would not be overlooked in comparison to the spaces associated with the first floor level units, in my opinion, the level of amenity afforded by these spaces to future residents would be relatively limited due to their narrow widths.

7.4.13. In summary, whilst the proposal is compliant with the Apartment Guidelines quantitative standards, I concur with the Local Authority that the quality and level of amenity provided by the proposed private open spaces is poor. In particular, in my opinion, the level of amenity afforded by the private open spaces at first floor level to future residents is very limited due to the level of footfall to the various own door units along the communal open space and the proximity of the offices to the rear of the site.

Communal Open Space

7.4.14. In accordance with Appendix 1 of the Apartment Guidelines, the proposal requires a total communal open space area of 121 sq m. However, Section 4.12 allows for a relaxation of communal space in part or whole on urban infill sites of up to 0.25ha, and SPPR 8(ii) allows flexibility in BTR schemes on the basis of provision of alternative, compensatory communal support facilities and amenities. The proposal includes approx. 310 sqm of communal open space, in a L-shape at first floor level. However, the long narrow section, fronting along Units No. 7-12, serves as the sole access point to these units and the units above them at second floor level (Nos. 15-20). I concur

with the Local Authority that this space would have very limited functional use as an amenity and communal space (see Landscape Plans and Landscape Design Rationale for Level 00 + Level 0, Outline Landscape Materials Specification Keys). As such, I estimate that the usable communal open space provision is approx. 140 sqm. This would exceed the minimum quantitative provision in the Apartment Guidelines. While the communal room would be located further to the west of this space, I note that the room only measures 3.68m in height and as such would not significantly overshadow the area. Having regard to the foregoing, I consider that the proposal provides sufficient and acceptable communal open space provision, notwithstanding the area included to the west of Nos.7-12.

Traffic and Car Parking

- 7.4.15. The proposed development includes for 26 No. car parking spaces, of which 14 No. are proposed for BTR use, while the remaining 12 No. are to be allocated to the existing offices on the rear of the site. No motorcycle parking is proposed.
- 7.4.16. Section 12.4.5.6 of the Development Plan states: *For the purposes of the parking standards set out in Table 12.5 below Built to Rent development are considered to be residential apartments. Where a Built to Rent scheme avails of lower car parking based on the nature of the use a condition should be attached to any grant of permission to state that planning permission shall be sought for a change of tenure to another tenure model following the period specified in the covenant.* Table 12.5 of the Development Plan outlines that 1-bed and 2-bed units can avail of 1 car parking space each, while 3-bed units can avail of 2 car parking spaces in Zone 2 areas (i.e. near public transport). I note that the Local Authority's Transportation Department highlighted that having regard to the offices' floor space and the maximum car parking standards of 1 per 100 sq m in the previous Development Plan, five spaces could be allocated to the said offices. Under the current Development Plan the maximum car parking standard for offices 'near public transport' is 1 per 150 sqm.
- 7.4.17. Having regard to the scale and nature of the development and the site's proximity to public transport and the fact that there would be no net increase in car parking spaces on the site, I do not consider that the proposal would result in a significant increase in traffic congestion in the area. However, I consider the overprovision of car parking for the offices to be unjustified and unacceptable in planning terms. Any congestion or

disruption during the construction phase would be temporary in nature and could be managed with a construction traffic management plan.

- 7.4.18. Furthermore, as discussed above, I consider that the provision of car parking spaces immediately next to the entrances to Unit Nos. 3 and 4 under the podium will result in a poor level of residential amenity for these units.
- 7.4.19. In terms of cycle parking provision, the scheme includes 48 No. cycle parking spaces in a storage room to the rear of the site. I note the Local Authority's Transportation Department's concerns regarding the amalgamation of spaces for both the BTR and offices. However, should the Board be minded to grant permission for the proposed development, I consider that a planning condition could be attached to the Order requiring the segregation of the spaces.
- 7.4.20. In summary, whilst the reduced car parking provision for the BTR is acceptable in principle, the oversupply of car parking spaces for the office would contribute to unsustainable transport and travel patterns in the area. Furthermore, I consider that the car parking layout will significantly reduce the residential amenity potentially available to Units 3 and 4.

Conclusion on quality and amenity value

- 7.4.21. Whilst the proposed development is compliant with the Apartment Guidelines' quantitative standards, in my opinion, the proposal fails to provide future residents with sufficient amenity and privacy in terms of the private open space provision. While I consider the proposed density, height, scale and massing to be acceptable in principle on the site, in my opinion, the scheme's overall configuration, which includes for the incorporation of the office buildings to the rear of the site would result in significant overlooking, which would in turn provide for a poor standard of residential amenity for future occupants. Furthermore, in addition to the oversupply of car parking spaces for the existing office development, the undercroft car parking layout would significantly limit access to Unit Nos. 3 and 4 and would present a substandard form of accommodation.
- 7.4.22. Therefore, in my opinion, the proposed development would be contrary to the Policy Objective PHP42 of the Development Plan in relation to the provision of high-quality design and would give rise to an unsatisfactory standard of residential amenity.

7.5. Impacts on Adjoining Properties

Overlooking

- 7.5.1. Having regard to the scheme's design and orientation in the context of the surrounding sites, I do not consider that there would be undue overlooking from the subject site on neighbouring properties. The proposal would not result in any increase in overlooking on the properties along Patrick Street. Whilst the units would overlook the buildings to the rear of the site, they are in commercial use. The proposal includes a 1.1m high guard rail along the western elevation of the communal open space podium. Having regard to the proximity (circa 6.5m) of the podium to the rear garden of No. 44 Patrick Street, I recommend that should the Board be minded to grant permission for the proposal that a planning condition be attached to increase the height of the screen to 1.8m-2m to prevent overlooking of the neighbouring property. In terms of the southern elevation of the proposed building, the scheme includes for a 1.8m high frost glazing screen on the balconies serving Unit Nos. 13 and 21. Furthermore, the development includes for the existing southern boundary wall to be raised to 1.8. Having regard to the separation distance between the proposed building and Ashford House's fenestration detail on its eastern elevation, there will be no overlooking to the nursing home.

Overbearing Impacts

- 7.5.2. As discussed above, I am satisfied that the proposed height, scale and massing are acceptable on the site, and will not have any adverse overbearing impacts on neighbouring properties.

Construction Impacts

- 7.5.3. I consider that any construction disturbance impacts on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. This matter could be satisfactorily agreed by conditions requiring the submission of construction management proposals to address any impacts.

Conclusion on Adjoining Properties

- 7.5.4. I acknowledge that the proposed development will result in significant changes to the existing environment, but I consider that the proposed development would be of a scale and distance from existing properties that would avoid any unacceptable

overlooking or overbearing impacts. And while it would involve an intensification of activity and development at both construction and operational stages, I consider that the impacts would be acceptable having regard to the established character of the area. Having regard to the assessment outlined above, I am satisfied that the proposed development would not seriously injure the amenities of properties to such an extent that it would have any adverse effect on the value of property in the vicinity of the site.

7.6. Daylight/Sunlight

- 7.6.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018), states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that ‘appropriate and reasonable regard’ should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.
- 7.6.2. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities ‘should have regard’ to these BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these

daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

- 7.6.3. The Sustainable Residential Development Guidelines acknowledge that orientation of the dwelling and its internal layout can affect levels of daylight and sunlight and will influence not only the amenity of the occupants but the energy demand for heat and light. It states that the efficiency gains derived from passive solar layouts can be enhanced by designing individual dwellings so that solar collection is maximised, i.e. when living rooms, dining rooms and main bedrooms have a southerly aspect. In relation to adjoining properties, it states that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals and the recommendations of BRE or BS guidance 'should be followed in this regard'.
- 7.6.4. The Development Plan also highlights the value of daylight and sunlight and states that development 'shall be guided by the principles of' the BRE Guide.
- 7.6.5. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that 'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.
- 7.6.6. The Applicant has submitted a quantitative performance analysis of the daylight/sunlight/overshadowing from the proposed development based on these Guidelines. The report outlines how Irish practitioners tend to refer to the British Standard (BS 8206-2:2008) and the BRE Guide, which are used as the reference standards in this report. However, it highlights that the recommendations in these publications are not suitable for rigid application, which is particularly important in the

context of policy for densification of urban areas or when dealing with highly constrained sites.

7.6.7. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE and the BS guidance sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The BRE guide does not give any advice on the targets to be achieved within a combined living/kitchen/dining (LKD) area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and kitchen the minimum ADF should be 2%. Notwithstanding this, the Applicant's assessment states *"The associated requirement within BS.8206-2 for "Kitchens" (ADF>2.0%) was developed for residential housing where the kitchen would be an identifiable separate room with seating and where occupants would be expected to eat and spend time as well as being generally present throughout the day. As the daylight analysis has been undertaken to ensure good continual environmental performance for the apartments, analysis has been undertaken assessing the Living/Dining areas of the KLD's, excluding the kitchenettes where task-based lighting is required on an intermittent basis. Whilst BRE 209 does not specifically reference Dining areas, these have been included within the zone of analysis allowing for the benefit of maximising daylight availability to the table space for envisaged variety of uses in addition to eating where, light would be beneficial – i.e. work from home, school/college homework, reading, writing, etc.. ... With regard to the above, the minimum values targeted for relevant spaces area >1.5% for Living/Dining Areas, >1.0% for bedrooms."*

7.6.8. The Applicant's study considered the predicted ADF to all the proposed units and found that 100% of the living/dining and bedrooms were compliant with the above. The study states *"However aside from meeting minimum requirements, most Living/Dining Areas and Bedrooms were determined to received daylighting comfortably exceeding these ADF targets, it was determined that an average ADF of above 2.8% would be provided for all living/dining space across the development, with 50% of the living spaces achieving an ADF in excess of 2.8%, as illustrated in Figure 5.1.2. Similarly,*

the average daylight factor in the bedrooms across the scheme was in excess of 2.5%. Acknowledging that 50% of the living spaces achieving an ADF in excess of 2.8% and having regard to the open plan layout of each of the units, I consider the analysis to be acceptable.

- 7.6.9. The impact on daylight is measured in terms of Vertical Sky Component¹. The assessment included Nos. 65-69 Patrick Street, which are located directly opposite the subject site on the eastern side of the Street. All windows were recorded to achieve a VSC of 27% or experience less than 0.8 times their former value.
- 7.6.10. Sunlight access is assessed with respect to a measure called Annual Probable Sunlight Hours (APSH). BRE guidance recommends that the APSH received at a given window in the proposed case should be at least 25% of the total available light, including at least 5% in winter. Where the proposed values fall short of these, and the loss is greater than 4%, then the proposed values should not be less than 0.8 times their previous value in each period. The Applicant outlines that the proposed development has no impact on sunlight in neighbouring buildings, due to there being no windows facing within 90° of due south on any of the neighbouring buildings.
- 7.6.11. I am satisfied that the Applicant's assessment of the proposal has been competently prepared in accordance with the BRE / BS guidance and methodology. The assessment demonstrates that the impacts would be acceptable. I do not consider the findings surprising having regard to the low-rise nature of the surrounding area and the scheme's proposed height, scale and massing. As such, I am satisfied with the proposal in this respect.

¹ The BRE guidelines set out a two-stage guide for the vertical sky component (VSC).

1. Where the Vertical Sky component at the centre of the existing window exceeds 27% with the new development in place then enough skylight should still be reached by the existing window.
2. Where the vertical sky component with the new development in place is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy, and electric light will be needed more of the time.

7.7. Other Matters

Flooding

- 7.7.1. The Observer highlights that the development of No. 50 Patrick Street disrupted the flow of a stream that runs underneath the road and as a result water had to be pumped out onto Patrick Street, which caused serious disruption to the locals. There is no reference to a stream on the file and I note that the Drainage Department did not raise any similar concerns. I highlight that the proposal development does not involve the construction of a basement level. I note that there are no reports of flooding in the area. In my opinion, there is insufficient technical or empirical evidence relating to this matter to refuse planning permission on this basis.

Drainage

- 7.7.2. As highlighted by the Local Authority's Drainage Department, the proposal is not compliant with the Development Plan's green roof policy. Section 12.8.6.3 of the current Development Plan requires: *Applications for developments with a roof area \geq 300sq.m. shall provide Green Roofs in accordance with 'Dún Laoghaire – Rathdown County Council's Green Roof Policy' (2020).* I do not consider it would not be necessary for this matter to form a reason for refusal of planning permission in this case given the substantive grounds of refusal cited above.

8.0 Appropriate Assessment

- 8.1.1. As stated above, the appeal site does not form part of, it does not adjoin or is it located within close proximity to any designated Natura 2000 site. I note that the nearest such sites are the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and South Dublin Bay SAC (Site Code: 000210) which are located c.1.2km from the site. There are no direct pathways between the site and the Natura 2000 network.
- 8.1.2. There are no European sites within or near the proposed development boundary, therefore there is no potential for direct impacts on any such site to occur. The proposed development is not an ex-situ site for Qualifying Interest/Special Conservation Interest populations of any European sites.
- 8.1.3. The proposed development involves the construction of 22 No. apartments on a site of 0.213ha that adjoins the existing sewerage system. The potential impact of the

proposed development on the quality and quantity of the effluent from city's sewers is negligible given its size relative to the urban development that the sewers already serve. So the hydrological links between the appeal site and the Natura sites could not be a pathway by which the proposed development would have the potential to have any effects on the applicable qualifying interests. Nearly all of the land between the appeal site and the Natura sites have been developed as part of the urban area. So there is no potential for development on the appeal site to give rise to any disturbance or displacement of habitats or species in the bay that could have an effect of the Natura 2000 sites.

- 8.1.4. In conclusion, having regard to the nature and scale of the proposed development, within an established area on serviced land, and the separation distance to the European sites to the subject brownfield site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) or South Dublin Bay SAC (Site Code: 000210) (or any other European site) during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1.1. I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028, and the design and layout of the proposed development, it is considered that the proposal would result in a substandard form of development for future residents by reason of the configuration of the proposed built to rent units in close proximity to the existing on-site office buildings and undercroft car parking, and the poor quality provision of private open space which will be largely overlooked from Patrick Street at ground floor level and by the communal open space and rear offices

at first floor level. The proposed development would be contrary to Policy Objective PHP42 of the Dun Laoghaire Rathdown County Development Plan 2022-2028 in relation to provision of high-quality design and would give rise to an unsatisfactory standard of residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan Clarke

Planning Inspector

22nd November 2022